

AN ACT

relating to the creation of the Texas music incubator rebate program to provide for rebates of a portion of certain taxes collected from certain music venues and promoters of certain music festivals.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 485, Government Code, is amended by adding Subchapter C to read as follows:

SUBCHAPTER C. TEXAS MUSIC INCUBATOR REBATE PROGRAM

Sec. 485.041. DEFINITIONS. (a) Except as provided by Subsection (b), the definitions in Section 1.04, Alcoholic Beverage Code, apply to this subchapter.

(b) In this subchapter:

(1) "Mixed beverage gross receipts tax" means the tax imposed by Subchapter B, Chapter 183, Tax Code.

(2) "Permit holder" means a person who holds a permit issued under Section 151.201, Tax Code.

(3) "Permittee" has the meaning assigned by Section 183.001(b), Tax Code.

(4) "Program" means the Texas music incubator rebate program.

(5) "Sales tax" means the tax imposed by Chapter 151, Tax Code.

Sec. 485.042. TEXAS MUSIC INCUBATOR REBATE PROGRAM. (a)

1 The office shall administer the Texas music incubator rebate  
2 program under which the office shall provide to eligible music  
3 venues and eligible music festival promoters from money  
4 appropriated from the Texas music incubator account a full or  
5 partial rebate of the mixed beverage gross receipts taxes and sales  
6 tax receipts attributable to the sale of beer and wine and remitted  
7 to the comptroller annually by those venues and promoters. The  
8 Texas music incubator account shall be funded by mixed beverage  
9 gross receipts taxes and sales tax receipts attributable to the  
10 sale of beer and wine remitted annually by venues and promoters and  
11 deposited into that account as required by Sections 151.801(f) and  
12 183.023(c), Tax Code. The rebates are to assist eligible music  
13 venues and eligible music festival promoters in their efforts to  
14 support and continue to bring to local communities in this state  
15 live musical performances, including the recruitment of musical  
16 performance artists.

17 (b) The office may not provide a rebate under the program to  
18 a music venue or music festival promoter in an amount that exceeds  
19 the lesser of:

20 (1) the amount of mixed beverage gross receipts taxes  
21 and sales taxes attributable to the sale of beer and wine remitted  
22 in the preceding fiscal year to the comptroller by the music venue  
23 or music festival promoter as a permittee or permit holder; or

24 (2) \$100,000.

25 Sec. 485.043. ELIGIBILITY FOR REBATE. (a) Except as  
26 provided by Subsection (b), to qualify for a rebate under the  
27 program, a music venue or music festival promoter, for at least the

1 two years preceding the date on which the music venue or promoter,  
2 as applicable, submits an application under Section 485.044, must  
3 have:

4 (1) been a permittee subject to the mixed beverage  
5 gross receipts tax or a permit holder subject to the sales tax on  
6 the sale of beer or wine;

7 (2) if the applicant is a music venue, been a retail  
8 establishment with a dedicated audience capacity of not more than  
9 3,000 persons;

10 (3) if the applicant is a music festival promoter,  
11 held a music festival in a county with a population of less than  
12 100,000;

13 (4) entered into a written contract with a musical  
14 performance artist to conduct a live performance at the venue or  
15 festival, as applicable, under which the artist received as  
16 compensation a specified percentage of ticket sales for or other  
17 sales during the performance, or a guaranteed amount in advance of  
18 the performance; and

19 (5) met at least five of the following criteria, one of  
20 which must be described by Paragraph (A) or (B):

21 (A) the marketing of live music performances  
22 through listings in printed or electronic publications;

23 (B) the provision of live music performances five  
24 or more nights per week;

25 (C) employment or contracting of the services of  
26 one or more people who are tasked with two or more of the following  
27 positions or services:

- 1                   (i) sound engineer;
- 2                   (ii) booker;
- 3                   (iii) promoter;
- 4                   (iv) stage manager; or
- 5                   (v) security personnel;
- 6                   (D) having live performance and audience space;
- 7                   (E) the provision of technical sound and lighting  
8 support, either in-house or through a contract with a vendor;
- 9                   (F) having a space for the storage of audio  
10 equipment or musical instruments;
- 11                   (G) the application of cover charges to one or  
12 more live music performances through ticketing or the imposition of  
13 a front door entrance fee; or
- 14                   (H) the maintenance of hours of operation that  
15 coincide with live music performance show times.

16           (b) The office may, at the office's discretion, provide a  
17 rebate under the program to a music venue or a music festival  
18 promoter that fails to meet the eligibility requirements prescribed  
19 by Subsection (a) solely because the venue is located, or the  
20 festival is usually held, as applicable, in a county located wholly  
21 or partly in an area that at any time during the preceding two-year  
22 period was declared to be a disaster area by the governor or by the  
23 president of the United States.

24           Sec. 485.044. REBATE APPLICATION. (a) The office shall:  
25                   (1) subject to Subsection (b), prescribe the  
26 application form for obtaining a rebate under the program; and  
27                   (2) establish an online portal on the office's public

1 Internet website that allows a music venue or music festival  
2 promoter to submit the application to the office for consideration.

3 (b) The application must:

4 (1) state the amount of mixed beverage gross receipts  
5 tax and sales tax receipts attributable to the sale of beer and wine  
6 that was remitted to the comptroller by the music venue or music  
7 festival promoter in the preceding fiscal year;

8 (2) include sufficient evidence for the office to  
9 determine that the music venue or promoter qualifies for a rebate;  
10 and

11 (3) include any other information the office  
12 determines necessary to administer the program.

13 (c) The office shall accept rebate applications beginning  
14 September 1 of each year and may provide rebates until all the money  
15 in the Texas music incubator account is exhausted.

16 (d) The office may expedite the review of an application  
17 submitted by a music venue or music festival promoter, if the venue  
18 is located, or the festival is usually held, as applicable, in a  
19 county located wholly or partly in an area that at any time during  
20 the preceding two-year period was declared to be a disaster area by  
21 the governor or by the president of the United States.

22 Sec. 485.045. REVIEW OF APPLICATIONS; REBATES. (a) After  
23 reviewing applications for a rebate under the program, the office  
24 shall grant rebates to eligible music venues and music festival  
25 promoters that the office determines provide or have committed to  
26 provide the most economic benefit to the communities in which the  
27 music venues are located or the festivals are held, as applicable,

1 and to the Texas music industry, including live music performers.

2 (b) As directed by the office, the comptroller shall issue a  
3 warrant for a rebate granted by the office under this section drawn  
4 on the Texas music incubator account.

5 Sec. 485.046. TEXAS MUSIC INCUBATOR ACCOUNT. (a) The Texas  
6 music incubator account is a dedicated account in the general  
7 revenue fund. The account is composed of:

8 (1) money deposited to the credit of the account under  
9 Sections 151.801(f) and 183.023(c), Tax Code;

10 (2) gifts, grants, and other money received by the  
11 office for the program; and

12 (3) other amounts deposited to the credit of the  
13 account.

14 (b) Money in the account may be appropriated only to the  
15 office for the purpose of paying rebates to music venues and certain  
16 music festival promoters under the program.

17 (c) Interest and other earnings from money in the account  
18 shall be credited to the account.

19 (d) On the last day of each state fiscal biennium, the  
20 comptroller shall transfer any money deposited to the account under  
21 Subsection (a)(1) that is unobligated and unexpended on that date  
22 to the general revenue fund to be used in accordance with  
23 legislative appropriation.

24 Sec. 485.047. RULES. The office shall adopt rules  
25 necessary to implement and administer this subchapter.

26 SECTION 2. Section 151.801, Tax Code, is amended by  
27 amending Subsection (a) and adding Subsection (f) to read as

1 follows:

2 (a) Except for the amounts allocated under Subsections (b),  
3 (c), (c-2), [~~and~~] (c-3), and (f), all proceeds from the collection  
4 of the taxes imposed by this chapter shall be deposited to the  
5 credit of the general revenue fund.

6 (f) The comptroller shall deposit each fiscal year \$100,000  
7 of the revenue received under this chapter to the credit of the  
8 Texas music incubator account under Section 485.046, Government  
9 Code.

10 SECTION 3. Section 183.023, Tax Code, is amended by  
11 amending Subsection (b) and adding Subsection (c) to read as  
12 follows:

13 (b) Except for the amounts allocated under Subsection (c),  
14 the [The] comptroller shall deposit the revenue received under this  
15 section in the general revenue fund.

16 (c) The comptroller shall deposit each fiscal year \$10  
17 million of the revenue received under this section to the credit of  
18 the Texas music incubator account under Section 485.046, Government  
19 Code.

20 SECTION 4. (a) Not later than September 1, 2022, the Music,  
21 Film, Television, and Multimedia Office within the office of the  
22 governor shall establish the Texas music incubator rebate program  
23 as required under Subchapter C, Chapter 485, Government Code, as  
24 added by this Act.

25 (b) Notwithstanding Section 485.044(c), Government Code, as  
26 added by this Act, the Music, Film, Television, and Multimedia  
27 Office shall begin accepting rebate applications as authorized

1 under that section beginning September 1, 2022.

2           SECTION 5. The Music, Film, Television, and Multimedia  
3 Office and the comptroller of public accounts are required to  
4 implement a provision of this Act only if the legislature  
5 appropriates money specifically for that purpose. If the  
6 legislature does not appropriate money specifically for that  
7 purpose, the office and comptroller may, but are not required to,  
8 implement a provision of this Act using other appropriations that  
9 are available for that purpose.

10           SECTION 6. This Act takes effect September 1, 2021.

S.B. No. 609

\_\_\_\_\_  
President of the Senate

\_\_\_\_\_  
Speaker of the House

I hereby certify that S.B. No. 609 passed the Senate on April 26, 2021, by the following vote: Yeas 22, Nays 9.

\_\_\_\_\_  
Secretary of the Senate

I hereby certify that S.B. No. 609 passed the House on May 8, 2021, by the following vote: Yeas 102, Nays 40, one present not voting.

\_\_\_\_\_  
Chief Clerk of the House

Approved:

\_\_\_\_\_  
Date

\_\_\_\_\_  
Governor